

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION-RIVERSIDE

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HONORABLE JESUS G. BERNAL, DISTRICT JUDGE PRESIDING

- - -

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) No. EDCV 18-1005-JGB  
 )  
CALIFORNIA STEM CELL TREATMENT )  
CENTER, INC., et al., )  
 )  
Defendants. )  
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REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

Riverside, California

Monday, July 13, 2020

11:23 a.m.

PHYLLIS A. PRESTON, CSR, FCRR  
Federal Official Court Reporter  
United States District Court  
3470 Twelfth Street  
Riverside, California 92501  
stenojag@aol.com

1 APPEARANCES:

2  
3 For the Plaintiff: (Telephonically)

4 U.S. DEPARTMENT OF JUSTICE  
Consumer Protection Branch

5 By: **NATALIE SANDERS**  
**ROGER GURAL**

6 Trial Attorneys  
450 5th Street, NW, Suite 6400-South  
7 Washington, DC 20530

8 U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES  
9 FOOD & DRUG ADMINISTRATION

10 By: **MICHAEL SHANE**  
**MICHAEL HELBING**

11 10903 New Hampshire Avenue  
Silver Spring, MD 20993-0002

12  
13  
14 For the Defendants:

15 VENABLE LLP

16 By: **CELESTE BRECHT**  
**MATTHEW GURVITZ**

17 Attorneys at Law  
2049 Century Park East, Suite 2300  
18 Los Angeles, California 90067  
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1 MONDAY, JULY 13, 2020; RIVERSIDE, CALIFORNIA

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3 THE CLERK: Calling No. 8 on the calendar, EDCV  
4 18-1005-JGB, United States of America v. California Stem Cell  
5 Treatment Center, Inc. 11:23

6 Counsel, please state your appearances for the  
7 record.

8 MS. SANDERS: Good morning. This is Natalie Sanders,  
9 trial attorney with the United States Department of Justice in  
10 Washington DC appearing on behalf of United States of America, 11:23  
11 the plaintiff in this matter.

12 THE COURT: Good morning.

13 MS. SANDERS: Good morning. Joining me on this call,  
14 Your Honor, is Federal DOJ trial attorney Roger Gural. He  
15 started as my trial co-counsel on the matter. And also joining 11:24  
16 us are two attorneys from the U.S. Food and Drug  
17 Administration, Michael Shane and Michael Helbing, and they are  
18 serving as of counsel on this matter.

19 THE COURT: Very well. Thank you. And good morning  
20 to you all. 11:24

21 MS. BRECHT: Good morning, Your Honor. Celeste  
22 Brecht on behalf of the defendants.

23 MR. GURVITZ: Good morning, Your Honor. Matthew  
24 Gurvitz also on behalf of the defendants.

25 THE COURT: Good morning. The matter is on calendar 11:24

1 today for the final pretrial conference. I assume that both  
2 sides will be ready to proceed to this court trial on  
3 July 28th; is that correct?

4 MS. BRECHT: Yes, Your Honor.

5 MS. SANDERS: Well, Your Honor, the Government 11:24  
6 certainly has been working diligently to prepare for trial and  
7 we certainly are looking forward to conducting that trial very  
8 shortly, but I did just want to flag that we do have some  
9 concerns about an in-person trial if that were to be held in  
10 the next two weeks. 11:25

11 THE COURT: About a what trial? You have some  
12 concerns about a what trial you said?

13 MS. SANDERS: An in-person trial. To the extent that  
14 Your Honor is contemplating that all of the counsel and  
15 witnesses would appear in person for the trial in Riverside, we 11:25  
16 do have some concerns about that, particularly in light of the  
17 way the numbers seem to be trending in California right now.

18 THE COURT: Right. Well, I understand and share your  
19 concerns, but I think there's things that we can do to assuage  
20 your concerns. One is, counsel here for the defendant and 11:25  
21 every one present in court is wearing masks. That's mandatory  
22 in my court. And any witnesses that testify will be wearing  
23 masks. And there is enough room in this courtroom for everyone  
24 to socially distance. So we are taking precautions. There are  
25 markers in the seating that indicate the spacing that is 11:26

1 required for people. Since we're not having the jury trial  
2 then those concerns regarding a jury are not present.

3 So if all of you are present, I guess that's four  
4 attorneys, and you might have to like sit two in the front and  
5 two in the back which may allow for social distancing. So I 11:26  
6 think there's enough space in this courtroom to both have  
7 everybody wear a mask and have everybody social distance while  
8 the proceedings take place. So given that, are your concerns  
9 any less or the same?

10 MS. SANDERS: We certainly appreciate the thought and 11:26  
11 attention that Your Honor has put into thinking about how we  
12 can do this. We would just flag whether now or a bit later  
13 that we do have some witnesses who are not able to travel at  
14 this time, and so we would need to talk about what arrangements  
15 would be made for those individuals. 11:27

16 THE COURT: And they're not able to travel for what  
17 reason?

18 MS. SANDERS: It varies. So we have one witness,  
19 Michelle Forrester, she is one of our FDA investigators who  
20 inspected defendants' facilities. She is out on leave and she 11:27  
21 is not released by medical professionals to travel at this  
22 time.

23 We have our CGMP expert. She is the person who is  
24 going to testify to the facts that underlie our adulteration  
25 charges, and she also is not able to travel at this time. 11:27

1           And then finally, we have an additional expert,  
2   Dr. Doran Fink, and he actually has important duties related to  
3   the COVID-19 crisis, and so he does have a conflict with  
4   particular days, and then because of additional child care and  
5   other responsibilities that he has, he would prefer, if he has 11:28  
6   to appear during the week of the 28th, to appear remotely. And  
7   specifically with respect to his conflicts, I can just inform  
8   the Court that he is on the CDC advisory committee on  
9   immunization practices, and he is an FDA-appointed  
10   representative for that, and he is out of pocket all day on 11:28  
11   July 29th and cannot be replaced because of his role on that  
12   panel. So he does have a conflict with a particular day and  
13   then he also has a conflict with traveling more broadly.

14           So that's at least three of the Government's  
15   witnesses who we anticipate have some challenges showing up in 11:28  
16   person for the hearing. And additionally, you know, I would  
17   just underscore on their behalf that these folks would all be  
18   flying in. None of our witnesses are local to California. So  
19   these are going to be people coming in from Michigan, from  
20   Kansas, from Texas, New Mexico, Virginia, Maryland, and 11:29  
21   Washington DC, and we do have concerns that some of them will  
22   have cold feet, so to speak, even if they were previously  
23   planning to testify in person.

24           I think the most recent numbers showing that  
25   hospitalizations are going up, deaths are going up, cases of 11:29

1 COVID infection are going up, and in the past week saw the  
2 deadliest two days of the pandemic back to back in the State of  
3 California with the state official cases now surpassing  
4 300,000. It seems like we're actually perhaps in a worse  
5 position than we were even back in March and earlier this year. 11:29

6 So I just want to be honest and transparent with the  
7 Court and flag that, because I do think that's a concern for  
8 every witness that will be traveling and remaining in  
9 California and relying on public transportation, shared rides,  
10 staying in hotels, and doing lots of things that increase their 11:30  
11 own exposure to possible infection and, you know, could result  
12 in either illness or sickness to them or even worse, you know,  
13 requiring everyone else associated with this trial to  
14 quarantine for some period.

15 So those are our concerns. It's not that we are not 11:30  
16 diligently preparing for trial and looking forward to trial. I  
17 think our concern is that we're in the middle of a pandemic  
18 that seems to be getting worse, not better, and where,  
19 potentially, we could look at other ways to do this trial that  
20 would better protect people's health, or if we were able to 11:30  
21 postpone it briefly --

22 THE COURT: Okay. I understand your concerns. I  
23 don't fault you or the witnesses for having such concerns  
24 certainly. So the alternatives to that is either, as you said,  
25 either postpone the trial or have some kind of way where the 11:31

1 witnesses that you indicated would testify remotely by video  
2 instead of live in court.

3 I guess the first question I have is, would the  
4 defendants be opposed to such a procedure?

5 MS. BRECHT: Your Honor, we would be definitely 11:31  
6 opposed to continuing the trial given that this lawsuit has  
7 dramatically impacted my clients' ability to conduct their  
8 business, and it's been continued multiple times. We're  
9 cognizant of the health concerns and we've met and conferred  
10 extensively with the Government, and we have no objection to 11:31  
11 any witness or counsel appearing remotely, if they would like  
12 to do so for, you know, protecting health concerns.

13 THE COURT: Very well. So I think that's the way to  
14 go then, set up a system by which the witnesses that did not  
15 wish to appear in person can testify through video, and I think 11:32  
16 that's -- we have the capability of doing that here in the  
17 courtroom. And again, since it is a court trial and not a jury  
18 trial then a lot of the concerns that would normally be  
19 attendant to not in-person testimony are not present.

20 So are you then -- I guess the question comes back to 11:32  
21 the plaintiff, are you comfortable then with the idea that you  
22 would present at least some of your witnesses through video?

23 MS. SANDERS: Well, we certainly appreciate that  
24 accommodation, and if that's the way the Court wishes to  
25 proceed, we would welcome that opportunity and we would want it 11:32



1 to be extended to any witness who has concerns and also any  
2 counsel on this matter that has a concern. I think that raises  
3 a question of how we would go about doing that and how we would  
4 work out the technical details. We've begun to give some  
5 thought to that, and I would just ask that we could have space 11:33  
6 and opportunity to have our technical people connect with the  
7 Court's technical people and make sure that we are able to do  
8 this in a seamless and as nondisruptive of a manner conducive  
9 to the conduct of the trial that Your Honor is expecting.

10 My co-counsel on this matter, Roger Gural, has given 11:33  
11 some thought to some of the issues, and certainly we've had  
12 discussions with defense counsel about some of the issues that  
13 we might be faced with, and I think that we would just need  
14 additional guidance from the Court to really make that a  
15 reality, particularly where a number of our witnesses would be 11:33  
16 doing this from home remotely.

17 THE COURT: Right. So I know it can be done because,  
18 again, the Court has that capability, and I can have my clerk  
19 and the Court's technical person consult with you and/or your  
20 staff to perhaps give a trial run and see whether or not it can 11:34  
21 be done as seamlessly as you say.

22 Also, if we run into some technical difficulties  
23 after the beginning of the trial, I'll be flexible in giving  
24 you time and/or resources to try to resolve those difficulties  
25 so the testimony you wish to present is, in fact, presented. 11:34

1           So I think that sort of we have a working plan that  
2 we will proceed with the trial on the 28th, and both sides will  
3 have the flexibility to present any witnesses or counsel either  
4 in person or remotely through video. So I will keep that trial  
5 date and direct both parties to confer with my deputy clerk  
6 and, of course, staff, technical staff to make sure that all  
7 technical difficulties are addressed so we can proceed.

11:35

8           Now I know there are some motions in limine pending.  
9 I can tell you that all of the ones that have been submitted  
10 will be denied, so that may cut down on the issues for trial  
11 and the witnesses to be presented.

11:35

12           Normally in a case - and, again, this is difficult to  
13 do -- I would set a time limit for both sides to present their  
14 case or to respond to the other side's case. I'm not going to  
15 do that in this time because of, again, the difficulties we may  
16 have with the video and the fact that video testimony may take  
17 longer than usual just because of the remote nature of that  
18 testimony and the difficulties that we may encounter.

11:35

19           But I will advise you that it is a court trial, so if  
20 I find that somebody is testifying either repetitively or  
21 testimony which I find not helpful or germane to the issues  
22 presented, I will ask you to speed it up and/or call your next  
23 witness. So be very careful about what witness you elicit. I  
24 saw the witness list. The plaintiff's witness list is just too  
25 long. I don't anticipate that all of those people would

11:36

11:36

1 testify given what I think are the narrow issues in the case.

2 So be conscious about which testimony you wish to  
3 present and make sure that that testimony is relevant to the  
4 issues of the case and not unnecessary background or  
5 unnecessary any relevant considerations such as the safety of 11:37  
6 the procedure form. So we may cut down on everybody's time by  
7 doing that.

8 I will give you what my rules of court are in case  
9 you are present in court, and I stick with these pretty  
10 religiously, and every judge that I know likes an orderly 11:37  
11 trial. I think I'm sort of in the middle of being controlling  
12 or not. I wish to have you have the freedom to present your  
13 case but I want it done in an orderly manner.

14 So these are sort of my rules of court and counsel  
15 behavior during the trial. You must -- 11:37

16 MS. BRECHT: Your Honor, may I sit?

17 THE COURT: You may sit.

18 Rule No. 1 is, you must address the witness in one of  
19 two ways, either by their last name or by their first and last  
20 name together. Don't address a witness only by their first 11:38  
21 name. The exceptions to that are minors and to avoid confusion  
22 with multiple witnesses having the same last name.

23 If you're in court, you stand when you address the  
24 Court even if it is to say a single word.

25 Only one attorney per side can both examine and 11:38

1 object to the other side's examination. So if one attorney  
2 examined the witness, co-counsel cannot then object to the  
3 other side's examination. Only one attorney does that. That  
4 cuts down on the confusion. That's also the case, and I don't  
5 think that will be the case in this case, but if we have any  
6 sidebars, which we won't because its not a jury trial, then one  
7 attorney argues the point. I don't want multiple attorneys per  
8 side arguing the same point.

11:38

9 Obviously, do not walk in the well or allow anybody  
10 else to walk in the well.

11:39

11 Do not bring food into the courtroom. You may bring  
12 something to drink, but do not bring food into the courtroom.  
13 Do not eat your lunch in the courtroom. There are other places  
14 in the courthouse where you can have lunch.

15 If a witness is testifying live, do not approach that  
16 witness unless you first ask for permission to do so and I  
17 grant it. My normal practice is not to let you approach the  
18 witness physically but to hand any document or exhibit to my  
19 deputy clerk who will then himself hand it to the witness.

11:39

20 If you wish to object, you stand and you say the word  
21 "objection," and you state the legal basis for the objection.  
22 You do not argue. Now, in this, I may give you a little more  
23 flexibility because the jury is not present, but still, do not  
24 argue unless you ask and I give you permission to argue the  
25 objection.

11:39

11:40

1           Also, be conscious what is and what is not a legal  
2       objection, okay? An objection saying "improper," that's not a  
3       legal basis for an objection. You have to give me a legal  
4       basis for the objection.

5           Do not publish an exhibit unless you've first  
6       identified it with a unique number, laid its foundation, or  
7       told me that the other side agrees to its admission and ask for  
8       it to be introduced into evidence. After I introduce it into  
9       evidence, you may go ahead and question the witness about the  
10      substance of that document.

11          When court is in session, you must address me and not  
12      each other. So do not break into impromptu conversations with  
13      opposing counsel even if it is to try to resolve an issue which  
14      needs a resolution. What you do is, you ask for permission to  
15      confer. I will always grant it. You then confer and tell me  
16      what, if anything, has been resolved.

17          When you are examining a witness or delivering your  
18      opening or closing statements, you do so from the lectern. Do  
19      not pace back and forth or wherever from the lectern. You must  
20      remain at the lectern or within one arm's length of it while  
21      you speak.

22          If you wish to exclude any witnesses then please do  
23      so at the beginning of the trial. I typically don't exclude  
24      parties or experts during testimony by other witnesses.

25          So those are the general rules. All the other ones

1 apply to when jurors are present. So be conscious of those  
2 rules, and I think the trial will go much more smoothly.

3 I intend to issue the ruling on the motions in  
4 limine, which you already know what it is, but I'll issue a  
5 written ruling probably this week.

11:42

6 So is there anything else that we need to discuss  
7 before we convene on the 28th?

8 If for some reason either side encounters technical  
9 difficulties after consulting with my staff which would make it  
10 improbable that we can have a smooth trial, then please alert  
11 my staff or file some kind of notice of that, and I will  
12 consider either postponing the trial or some other measure. I  
13 certainly do not want to burden any side from presenting their  
14 case. So if the technical difficulties cannot be resolved, I  
15 guess I will have to continue the trial, but I do not want to.

11:42

11:43

16 Anything else by either side that they wish to bring  
17 up before we adjourn?

18 MS. BRECHT: Your Honor --

19 MS. SANDERS: Thank you, Your Honor.

20 THE COURT: Let the plaintiff go first. By the  
21 plaintiff.

11:43

22 MS. SANDERS: Thank you, Your Honor. You touched on  
23 a number of points when you were reviewing the rules of court.  
24 I just want to flag for Your Honor's consideration that we may  
25 need to talk about the specifics of a protocol or a plan with

11:43

1 how you would handle some of those rules of court with the  
2 witnesses who are appearing remotely. So, for example, a  
3 sidebar, that we want to make sure that the witness isn't able  
4 to listen in on or, you know, how we go about presenting  
5 exhibits to that witness who is only appearing by video and 11:44  
6 details like that. If Your Honor has a preference for how we  
7 bring those kinds of issues to your attention separate and  
8 apart from just making sure that the technology works, you  
9 know, we will be sure to comply with whatever Your Honor would  
10 want us to do. But I do want to make sure that some of those 11:44  
11 things that you mentioned, we are able to be consistent with  
12 our virtual witnesses as well as the --

13 THE COURT: I understand. So I think we have the  
14 technology to mute the witness video while we discuss other  
15 matters, so I think that can be done. But, again, the 11:44  
16 specifics of that you will have to discuss with my clerk and my  
17 IT person.

18 As to the exhibits that will be presented and will be  
19 introduced through specific witnesses, then I suggest you talk  
20 with opposing counsel and have a method by which the exhibit 11:44  
21 that will be received, the witness has a copy and there is some  
22 kind of verification that the exhibit which you're introducing  
23 is the same one that the witness has with him or her, either by  
24 declaration or some other form, and then I think we can proceed  
25 that way. But there has to be some kind of verification, 11:45

1 preferably under oath, by somebody that the exhibit that is  
2 being used by the questioner is the same exhibit that is in  
3 front of the witness, but I think those things can be worked  
4 out.

5 Any other concerns?

11:45

6 MS. SANDERS: I do. I do. You also mentioned the  
7 importance of being selective with the trial testimony that's  
8 presented, and we certainly will be sure to abide by the  
9 Court's recommendation there. I do just want to clarify that  
10 the Court still intends for the Government to put on all of the  
11 evidence underlying the elements of this claim. I know when we  
12 posed this question in the motion for clarification, the Court  
13 was very clear that it was expecting the Government to put on  
14 its entire case, and so I do want to make sure that at the end  
15 of our trial process that we have a record that contains  
16 evidence on every claim that the Government bears the burden of  
17 establishing at trial. That's important in the event that  
18 there perhaps may be an appeal taken by either side, we just  
19 want to ensure that our record is complete.

11:45

11:46

20 THE COURT: Certainly. It's not my intent in any way  
21 to limit you or restrict you from doing that, presenting  
22 evidence regarding every claim to which you have a burden of  
23 establishing. I wasn't referring to that. I was highlighting  
24 more sort of what I believe to be irrelevant testimony or  
25 repetitive or duplicative testimony since there's going to be

11:46

11:46



1 multiple witnesses perhaps testifying about overlapping issues.

2 MS. SANDERS: Fair enough. Thank you, Your Honor.

3 And does Your Honor contemplate that the trial will  
4 be broadcast to the public in some way?

5 THE COURT: No.

11:47

6 MS. SANDERS: Okay. Fair enough.

7 THE COURT: I mean, anybody can come in. Its a  
8 public trial, but it's not a publically broadcasted trial.

9 MS. SANDERS: Understood. And with respect to  
10 information that the parties contend should be protected from  
11 disclosure in some way, whether it was confidential commercial  
12 information that the defendants may seek to protect or  
13 information that is in a patient's medical record and that is  
14 otherwise subject to nondisclosure, how does the Court prefer  
15 that the parties handle that?

11:47

11:47

16 THE COURT: So the best way I think to handle that is  
17 handle it by exhibit by exhibit when the time comes. Perhaps  
18 before the witness is going to testify about that particular  
19 exhibit then we can have a conversation about what should be  
20 sealed and what can remain public. Obviously, there is a  
21 preference and a strong preference for public access to the  
22 exhibits. It is a public trial after all. But, obviously, if  
23 there is some sensitive information of a personal nature, you  
24 can either redact that from the exhibit that is to be  
25 introduced or have certain portions or all of the exhibit be

11:48

11:48

1 introduced under seal.

2 MS. SANDERS: Thank you, Your Honor. Those are all  
3 my questions at this time.

4 THE COURT: Very well. For the defendants, any  
5 questions, clarifications? 11:48

6 MS. BRECHT: Yes, Your Honor. One issue which Your  
7 Honor touched on was the length of the Government's exhibit  
8 list, and we've tried to meet and confer with the Government to  
9 figure out which of the 23 -- I'm sorry, the witness list, not  
10 exhibit list. 11:49

11 THE COURT: Right.

12 MS. BRECHT: We tried to meet and confer with them to  
13 figure out which of the 23 witnesses they actually intend to  
14 call just in connection with trial preparation and then also  
15 time limits. Is there any deadline that Your Honor could give 11:49  
16 or additional guidance or instruction to actually get this list  
17 to come down to a reasonable size and/or could we get an order  
18 that at least three days in advance of when the Government is  
19 going to call these witnesses that we get notice of which  
20 witnesses will be called? 11:49

21 THE COURT: So there is a couple of ways that we can  
22 address that. One is, you know, I will issue the motions --  
23 the ruling on the motions in limine. That may narrow down the  
24 testimony and/or the number of witnesses. The other rule that  
25 I generally impose on both sides is to alert the opposing side 11:49

1 the night before by 6 p.m. of the witnesses that the other side  
2 intends to call the following day. So that way you're not in  
3 the dark about who may or may not testify. So that would give  
4 you some indication. Obviously, they're not going to be able  
5 to call 20 witnesses in a day. So if I order them to give you 11:50  
6 an indication who they anticipate calling the next day, you'll  
7 have a good idea what witnesses will testify and what their  
8 testimony will be having previously deposed those witnesses.

9 MS. BRECHT: Thank you, Your Honor.

10 MS. SANDERS: Your Honor, may I -- 11:50

11 THE COURT: Hold on. The defendant is not done.

12 MS. BRECHT: The other issue, in connection with  
13 witnesses, is that the Government and the defense have  
14 witnesses that overlap. So, as an example, Dr. Lander and  
15 Dr. Berman and Sean Berman, and so in hopes of supporting 11:50  
16 efficiency, I would request that whenever the Government calls  
17 Dr. Lander, Dr. Berman, and if they call Sean Berman in their  
18 case-in-chief, if I could either do my direct examination first  
19 or if my examination could be not limited to whatever the scope  
20 of the Government's direct is so that each of those witnesses 11:51  
21 is only called once as opposed to being called twice, I think  
22 especially because it's a bench trial.

23 THE COURT: Right. So that is granted. Feel free to  
24 exceed the scope on the other side. And I will give each side  
25 -- what I normally do is, I give each side two examinations per 11:51

1 witness so you're able to respond. So if the plaintiff calls a  
2 witness, they will direct and redirect, the defendant would  
3 then cross/direct and recross. So you have, both, two shots,  
4 an initial shot at the witness and then a response with a  
5 second examination.

11:51

6 MS. BRECHT: Thank you, Your Honor.

7 THE COURT: So back to the plaintiff. Ms. Sanders,  
8 do you have any other concerns?

9 MS. SANDERS: Well, Your Honor, would you entertain  
10 briefly being heard on the issues that defense counsel just  
11 raised, because they touch on a number of important points?

11:52

12 THE COURT: What are your concerns regarding that?

13 MS. SANDERS: Okay. So with respect to the idea that  
14 defense counsel will exceed the scope of direct and wish to  
15 question Dr. Berman, Dr. Lander, or any other of the defense  
16 witnesses beyond the scope of the Government's testimony, this  
17 seems to be an attempt to have the Court rule on their request  
18 for bifurcation. And, Your Honor, we don't think that is  
19 appropriate in this case for a number of reasons.

11:52

20 Defendants disclosed their witnesses to us as fact  
21 witnesses, and we intend to perhaps call one or more of them as  
22 fact witnesses. What we don't want to do is have them then lay  
23 out their defense in the middle of our affirmative case.

11:52

24 Generally speaking, when it comes to issues of  
25 bifurcation, which is what her request really touches on, you

11:53

1 generally bifurcate by having liability established in the  
2 first instance and then, only if that's been established,  
3 having someone present a defense or having someone present  
4 testimony as damages.

5 What defense counsel just suggested is that Your  
6 Honor put the cart before the horse. In other words, we'll be  
7 at a point in our potential examination where we won't have  
8 even established that the FDCA has been violated. We are  
9 simply trying to get a number of facts on the record so that  
10 Your Honor can have a normal examination of the Government's  
11 case and actually understand what the Government has alleged  
12 with respect to the FDCA claims.

13 THE COURT: I think the dangers which you highlight  
14 would be more salient in a jury trial. I think I can keep  
15 straight what goes to the case-in-chief and what goes to a  
16 defense and whether or not one or the other or both have been  
17 established. So I don't see a danger of having that testimony.  
18 I'm not going to be prejudiced by testimony of a defense in  
19 determining whether or not you state your case. So I think  
20 we're going to do it that way.

21 If you wish, you have the chance to recall witnesses,  
22 so you can, after the testimony is done of your witness, in  
23 rebuttal, you may recall a witness if you think something has  
24 been missed or something needs to be clarified in light of the  
25 examination that the defendants conducted. So you'll have

1 plenty of opportunity to make clear what testimony you wish to  
2 have the Court pay attention to. And you, as the plaintiff,  
3 have the exclusive right to call witnesses on recall. So I  
4 think the dangers that you highlight are not going to be real  
5 dangers during the trial.

11:55

6 Anything else?

7 MS. SANDERS: One other point about narrowing down  
8 the Government's witness list. We've had a number of  
9 conversations off line with defense counsel about the fact that  
10 nine witnesses on that list are associated with the defendants,  
11 seven of whom are nonparty witnesses, and we have stressed to  
12 them on multiple occasions that we don't intend to call those  
13 witnesses in our case-in-chief but would purely reserve them  
14 for rebuttal in the event that we need them.

11:55

15 We do need to serve subpoenas on those nonparty  
16 witnesses. We asked defense counsel if they could accept  
17 service of these subpoenas of these individuals that are  
18 employees of or otherwise associated with the defendants and  
19 they did decline. So I just want to flag for Your Honor that  
20 we are working to serve these subpoenas. And first, we just  
21 need to figure out the residential addresses of these  
22 individuals. We don't have that because we, otherwise, just  
23 have their corporate affiliated address, and we requested  
24 assistance from opposing counsel in locating these people, but  
25 we have not yet --

11:55

11:56

11:56

1 THE COURT: And these are current employees of  
2 California Stem Cell Treatment?

3 MS. SANDERS: We understand that most of them are.  
4 We're not personally aware of who is not.

5 THE COURT: Very well. So Ms. Brecht, will you  
6 accept service of the witnesses that are current employees of  
7 your client?

11:56

8 MS. BRECHT: Yes, Your Honor, for current employees.  
9 The issue is, as I represented to the Government, not all of  
10 the people who they've requested are current employees.

11:56

11 THE COURT: Very well. So that is the ruling. If  
12 they are current employees of the defendant then the defendant  
13 will accept service for those employees. If they are not  
14 current employees then you will have to find out how you're  
15 going to serve them.

11:57

16 MS. SANDERS: Thank you, Your Honor.

17 THE COURT: Anything else?

18 MS. BRECHT: No, Your Honor.

19 THE COURT: Very well. Then we'll see you back here  
20 on the 28th. Mr. Galvez will give you contact information for  
21 you to contact -- you and your staff to contact to try to get  
22 the issues resolved regarding the remote testimony and the  
23 video access. And we'll see you back here on the 28th.

11:57

24 Thank you.

25 MS. BRECHT: Thank you, Your Honor.

11:57

1 MR. GURVITZ: Thank you, Your Honor.

2 (Proceedings concluded.)

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CERTIFICATE OF OFFICIAL REPORTER

I, PHYLLIS A. PRESTON, FEDERAL OFFICIAL REALTIME COURT REPORTER, IN AND FOR THE UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA, DO HEREBY CERTIFY THAT PURSUANT TO SECTION 753, TITLE 28, UNITED STATES CODE THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT OF THE STENOGRAPHICALLY REPORTED PROCEEDINGS HELD IN THE ABOVE-ENTITLED MATTER AND THAT THE TRANSCRIPT PAGE FORMAT IS IN CONFORMANCE WITH THE REGULATIONS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES.

DATED THIS 23RD DAY OF JULY, 2020

/s/ PHYLLIS A. PRESTON

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PHYLLIS A. PRESTON, CSR No. 8701, FCRR  
FEDERAL OFFICIAL COURT REPORTER